

REMARKS/ARGUMENTS

Claims 24-35 are pending. By this Amendment, claim 1 has been canceled, claims 24-35 have been added, the specification has been amended, and a new Abstract has been provided. Reconsideration in view of the above amendment and the following remarks are respectfully requested.

The specification was objected to based on informalities noted at page 8 and 9. By this Amendment, page 8, line 24 and page 9, line 1 have been amended in accordance with the Examiner's helpful observations. Withdrawal of the objection is respectfully requested.

In the Office Action, an Abstract was requested. Attached hereto is a new Abstract in accordance with the Examiner's requested.

Claim 1 was rejected under 35 U.S.C. § 112, second paragraph. By this Amendment, claim 1 is canceled and new claims 24-35 presented herein do not employ the language objected to the Examiner. Withdrawal of the rejection is respectfully requested.

Claim 1 was rejected under 35 U.S.C. § 102(b) over Phillips, U.S. Patent No. 5,438,980. In addition, claim 1 was rejected under 35 U.S.C. § 102(b) over Sullivan et al., U.S. Patent No. 5,199,424. These rejections are respectfully traversed as claim 1 is canceled by this Amendment.

In as much as these rejections may apply to new claims 24-35, the following comments are provided.

Claim 24 recites a device to detect breathing activity of a person. The device includes a flow sensor to supply a first signal indicative of breathing gas flow and at least one signal processor to process the first signal. The signal processor is arranged to as to generate a reference-relation on the basis of the first signal detected over a first period of time, said first period of time being set so as to cover at least two breathing cycles. The signal processor also

generates a correlation-relation between the reference-relation and the first signal. The claim goes on to recite that the signal processor is arranged so as to generate ... an output signal which is indicative with respect to the breathing activity and/or the physiological condition of the breathing person, and to adjust the breathing gas pressure control in accordance with the output signal.

Phillips does not disclose this subject matter. Instead, Phillips discloses the generation of a pair of signals (S) and (Sd), wherein S and Sd are subjected to a real time comparison for detecting periods of inspiration and expiration. Phillips does not appear to generate a reference function over a duration that covers at least two breathing cycles, as set forth in claim 24. Further, Applicants respectfully submit that there is also no comparison that results in the generation of a correlation-relation.

Sullivan et al. appears to be completely silent in respect to the approach of generating a reference function and a correlation-relation.

Therefore, neither Phillips nor Sullivan et al. discloses the subject matter of independent claim 24 and dependent claims 25 through 33.

Newly added independent claim 34 recites a device to deliver a breathable gas towards a patient. The device includes a pressure controller to control the pressure of the breathable gas delivery to the patient. A detector to detect the breathing activity of the person includes a flow sensor to supply a first signal indicative with respect to breathing gas flow and at least one signal processor to process the first signal. The signal processor is configured so as to generate a reference-relation on the basis of the first signal detected over a first time period, the first time period being set so as to cover at least two breathing cycles, and a correlation-relation between the reference-relation and the first signal. The signal processor is further configured so as to

generate on the basis of an observation of the correlation-relation and output signal which is indicative with respect to the breathing activity and/or the physiological condition of the breathing person, wherein the pressure of the breathable gas as controlled by the pressure controller is adjustable in accordance with the output signal. Neither Phillips nor Sullivan et al. teaches or discloses this subject matter.

Claim 35 recites a device to supply breathing gas to a patient above ambient pressure. The device includes feeding means for feeding said breathable gas and at least one detector to detect breathing gas pressure and/or the breathing gas flow, wherein a signal processor is adapted to generate a reference-relation on the basis of each detected signal and to adjust the breathing gas pressure on the basis of a correlation between the reference-relation and a prevailing breathing pattern. Neither Phillips nor Sullivan et al. discloses this subject matter.

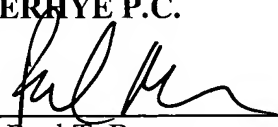
In view of the above remarks and comments, Applicants respectfully submit that all the claims are patentable and that the entire application is in condition for allowance.

Should Examiner Dawson believe that anything further is desirable to place the application in better condition for issuance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

NIXON & VANDERHYTE P.C.

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